

REMARKS

With the Amendment and Response to the Final Action that Applicant filed on July 20, 2006, Claims 2, 4 and 12-29 have been canceled without prejudice or disclaimer. Claims 1, 6, 8, 10, 30, 32, 34, 37, 39, 41, 43, 46, 48, 51, 53, 55, 58, 60, 62, 64, and 67-69 have been amended. Support for the amendments can be found throughout the specification and the claims as filed. In the Advisory Action, the Office indicated that those amendments would be entered. Applicant thank the Office for entering those amendments.

With the present Supplemental Amendment and Response filed herewith, Claims 1, 3, 5, and 72 have been amended. Support for the amendments can be found throughout the specification, *e.g.*, Specification at p. 10, lines 17-20 and Figure 1, and the claims as filed. This application presently contains claims 1, 3, 5-11 and 30-72. No new matter is added by these amendments. Applicant respectfully requests entry of the foregoing amendments.

Withdrawn Objections and Rejections

Applicant thanks the Examiner for indicating in the Advisory Action that the rejections to claims 6, 8, 10, 35, 37, 39, 41, 43, 46, 48, 51, 53, 55, 58, 60, 62, 64, 67 and 69 under 35 U.S.C. § 112, second paragraph, have been overcome.

Rejections under 35 U.S.C. § 103

Claims 1, 3, 5-11 and 30-72 stand rejected under 35 U.S.C. § 103(a) as allegedly obvious over Uijtewaal *et al.*, EP 0416572 A1, Leone *et al.*, *Nucl. Acids Res.*, 26:2150-2155 (1998) and Heid *et al.*, *Genome Research*, 6:986-994 (1996). The Office alleges that “[i]t would have been *prima facie* obvious to one of ordinary skill in the art to have used the real-time detection methods of Leone *et al.* and Heid *et al.* to detect ribozymes in transfected plants of Uijtewaal.” Final Action at page 6. The Office further alleges that motivation to combine these references is provided in Leone *et al.* (page 2155, last paragraph) and Heid *et al.* (page 992, first and second paragraphs). Final Action at pages 6-7. Advisory Action at page 2.

While the Applicant disagrees that the Examiner has established a *prima facie* case of obviousness,¹ the cited references, even when combined, do not disclose or suggest a nucleic acid probe that is capable of being released from a target nucleic acid molecule.

A *prima facie* case of obviousness requires that the prior art reference, or references when combined, teaches or suggests all of the claim limitations. Whatever else Uijtewaal *et al.*, Leone *et al.*, and Heid *et al.* teach, these references do not teach or suggest the processes of claims 1 or 3. At the very least, Uijtewaal *et al.*, Leone *et al.*, and Heid *et al.* do not teach or suggest "carrying out the amplification in the presence of an excess of a nucleic acid probe which contains the sequence motif 5'-CUGANGA-3' (motif B) and is capable of being released from the target nucleic acid molecule, a reporter molecule and a quencher molecule attached to each probe molecule."

As such, Applicant respectfully requests withdrawal of the rejections of claims 1, 3, 5-11 and 30-72 under 35 U.S.C. § 103(a) for purported unpatentability over Uijtewaal *et al.*, Leone *et al.*, and Heid *et al.*

The presently pending claims are believed to be in condition for immediate allowance. Accordingly, the Office is respectfully requested to pass this application to issue. The Office is respectfully requested to contact Applicant's undersigned representative at 202.942.5068 to address any unresolved issues remaining in this application.

Respectfully submitted,



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¹ See Applicant's Amendment and Response filed July 20, 2006.